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10/16/02

UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 2834

Examiner: T. Lam

In re:

Applicant: SCHUSTEK, S., et al

Serial No.: 09/582,959

Filed: August 22, 2000

**REQUEST FOR RECONSIDERATION**

October 11, 2002

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

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Sir:

This communication is responsive to the Office Action of May 16, 2002.

In the Office Action, the claims are rejected as obvious over the patent to Rimkus and the patent to Schustek.

After carefully considering the Examiner's grounds for the rejection of the claims, applicants have retained the claims as they are. It is respectfully submitted that Claims 13 and 23 define the features which are not disclosed in the references and cannot be derived from them as a matter of obviousness.

The patent to Rimkus discloses an electrical machine, in which the pole shoe (3) composed of plates is held together by two rivets (12, 13) which are shown in Figure 1 and explained in column 2 starting from line 61. These rivets neither serve for mounting of an excitation pole on a pole housing, nor they are formed as blind rivets. The rivets disclosed in this reference, when compared with screws for mounting of the excitation coil (1), pole core (2), pole shoe (3), are formed very delicately. Thereby they are not suitable for mounting of a pole shoe on a pole housing and therefore lead away from a mounting of the excitation coil by means of rivets. The Examiner's opinion expressed on page 3, starting from line 1 that a separate rivet (12) connects the excitation pole (2) with the pole housing (6) is incorrect.

It is believed to be clear that this reference does not teach the new features of the present invention as defined in the independent claims.

Turning now to the patent to Schustek, it is submitted that Claim 13 defines the features which clearly and patentably distinguish the present invention from the solution proposed in the patent to Schustek. While Claim 13 defines additionally that a blind rivet is used, Figure 2 in the patent to Schustek shows a conventional rivet (7, 8, 10) with which during a riveting process it is necessary to apply large riveting tools from both sides of the rivet, or in other words from the radial outer side and the radial inner side. From the radial inner side, the head part (7) must be held against the high riveting force which is applied from the radial outer side by the riveting tool.

Figure 3 illustrates the use of a double-trapezoidal profile. This profile extends from the background and the description (column 3, lines 47 and further) in an axial direction of the rotor (15). The profile is displaceable outwardly from its groove-shaped receptacles and therefore is not a rivet. Figures 4a and 4b illustrate further modifications of the profile shown in Figure 3 and similarly to it rail-shaped profile with two (also rail-shaped) heads (406, 407). These profiles are inserted in axial bores (415) as disclosed in column 3, line 63. The deformed heads (407) are further expanded by a bolt (16) or a mandrel (17). These profiles are not rivets, since these profiles in one direction make possible to provide however a frictional connection between the magnets (19) and their holder (15). The magnets are releasable by axial displacement in an outer direction. The above-mentioned rail-shaped profile with two rail-shaped heads (406, 407) cannot be considered as a blind rivet or in any way similar to a blind rivet.

Thus, it is clear that the patent to Schustek does not teach a new feature of the present invention as defined in Claim 13.

The same arguments are true with respect to Claim 23, when its features are compared to the solution proposed in the patent to Schustek. The Examiner's opinion expressed on page 3, line 4 and further, that the rivet (14) is a blind rivet is incorrect for the reasons explained hereinabove.

Applicants enclose herewith an information sheet related to rivets and taken from the corresponding website. In accordance with this information sheet, the definition of the blind rivet exactly corresponds to the rivets shown in Figures 1a and 1b. A blind rivet is defined so that on the one hand it can be insertable from a predetermined side of an object with its shaft into an opening, and on the other hand, this shaft can be deformed or expanded from the same predetermined side. Simultaneously the setting head (20) and the closing head (22) act form-lockingly in the direction, in which the blind rivet is inserted.

It is believed to be clear in connection with this, that the rail-shaped element, in particular, the "pre-headed attachment elements" (13, 14) disclosed on page 3, starting from line 56 in the patent to Schustek cannot be considered as blind rivets. The "pre-headed attachment elements" operate and hold with their "head portions" (7, 8) in a predetermined direction (radial) the magnet (19) on the "rim portion" (15) form-lockingly.

However, they are expanded from another direction (axial) and do not allow the expansion of the "lower heads" (407) through the openings in which the "shanks" (403) are seated. The mounting solution disclosed in the patent to Schustek provides in an axial direction only a frictional connection, which conventionally because of the forces acting on the held magnet (19) loosens in time and therefore cannot provide a reliable mounting.

It is believed to be clear that the new features of the patent invention which are now defined in Claims 13 and 23 are not disclosed in these references and cannot be derived from them as a matter of obviousness. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified. In particular, the solutions proposed in the references have to be modified by replacing them or including into them the new features of the present invention which are now defined in Claims 13 and 23. However, as was decided in the decision of the U.S. Court of Customs and Patent Appeals, for example in his decision In re: Randall and Radford (165 USPQ 586):

"Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest."

Definitely, the references do not suggest any modifications which would lead to the applicant's invention.

As explained hereinabove, the present invention provides for the highly advantageous results increased reliability and strengths of mounting, which are not accomplished by the solutions proposed in the references. In connection with this, it is believed to be justifiable to cite the decision of the Patent Office Board of Appeals, in the case Ex Parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

"Claims are not rejected on the grounds that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicant's results, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices."

In view of these remarks and arguments, it is believed that Claims 13 and 23 should be considered as patentably distinguishable over the art and should be allowed.

Reconsideration and allowance of the patent application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Any costs involved should be charged to the deposit account of the undersigned (No. 19-4675). Alternatively, should the Examiner feel that a personal

discussion might be helpful in advancing this case to allowance, he is invited to telephone  
the undersigned (at 631-549-4700).

Respectfully submitted,

  
Michael J. Striker  
Attorney for Applicant  
Reg. No.: 27233  
103 East Neck Road  
Huntington, New York 11743

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